

## **REMARKS**

The pending Office Action addresses claims 1-19, 21-27, 29-33, and 35, however claims 2-5, 13-16, and 25 are withdrawn from consideration. Claims 1, 6-12, 17-19, 21-24, 26, 27, 29-33, and 35 stand rejected. Reconsideration is respectfully requested in view of the amendments and remarks submitted therewith.

### ***Amendments to the Claims***

Applicants amend independent claim 1 to recite that the bone-engaging member includes a head formed thereon, and that the U-shaped receiver member is movably coupled to the head of the bone-engaging member. Claims 2, 3, 7, and 9 are amended to correspond to amended claim 1. Independent claims 12 and 24 are amended to recite a head formed on the bone-engaging member, and a cavity formed in the U-shaped receiver member that freely movably seats the head of the bone-engaging member. Claims 13, 18, 19, 27, and 29 are amended to correspond to amended claims 12 and 24. Support for these amendments can be found throughout the specification and in the claims. No new matter is added.

### ***Rejection Pursuant to 35 U.S.C. §102***

The Examiner continues to reject claims 1, 6-12, 17-19, 21-24, 26, 27, 29-33, and 35 pursuant to 35 U.S.C. §102(b) as being anticipated by US Patent Application Publication No. 2003/0045879 A1 of Minfelde et al. (“Minfelde”). In particular, the Examiner argues that Minfelde discloses a U-shaped receiver (16) with legs (18, 19) defining a U-shape for receiving a rod. The Examiner submits that “the rod is fixed to the receiver when the screw (1) is still freely moveable (until it as well is fixed by 42).” Applicants respectfully disagree.

Independent claim 1 recites a U-shaped receiver member movably coupled to a head of a bone-engaging member. Independent claim 12 similarly recites a U-shaped receiver member having a cavity that seats a head of a bone-engaging member. Independent claim 24 recites a method that includes implanting a U-shaped receiver member having a cavity that seats a head formed on a bone-engaging member. Minfelde does not teach or even suggest a U-shaped receiver member that is coupled to a head of a bone-engaging member, as required by claims 1, 12, and 24. Rather, as shown in Figure 2C of Minfelde, the U-shaped receiver (16) is coupled to an extension (13) formed on a

first component (4). The first component (4) does not engage bone, and thus it cannot be considered to be a bone-engaging member, as required by claims 1, 12, and 24. The only portion of Minfelde that engages bone is the screw (1), however the screw (1) is mated to the first component (4), not the receiver (16). Accordingly, Minfelde cannot anticipate claims 1, 12, and 24, and therefore claims 1, 12, and 24, as well as claims 6-11, 17-19, 21-23, 26, 27, and 29-31 which depend therefrom, distinguish over Minfelde and represent allowable subject matter.

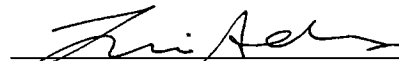
Independent claim 32 also distinguishes over Minfelde. Claim 32 recites a U-shaped receiver having a distal seat for receiving at least a portion of the head of a bone screw. As discussed above, the U-shaped receiver of Minfelde does not seat any portion of the bone screw, but rather is attached to the first component (4). Claim 32, as well as claims 33 and 35 which depend therefrom, therefore represent allowable subject matter.

### ***Conclusion***

In conclusion, Applicants submit that all claims are now in condition for allowance, and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicant if such communication is deemed to expedite prosecution of this application.

Respectfully submitted,

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